

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CARMEN CARTER,	:	NO. 1:00-CV-00739
	:	
Plaintiff,	:	
	:	
v.	:	ORDER
	:	
THE E.W. SCRIPPS COMPANY,	:	
	:	
Defendant.	:	

This matter is before the Court on the Magistrate Judge's July 28, 2003 Report and Recommendation (doc. 74), to which there were no objections filed.

Plaintiff's Complaint seeks to vacate an arbitrated decision finding just and sufficient cause existed for Defendant's suspension and termination of Plaintiff's employment (doc. 1). According to Plaintiff, the Arbitrator's decision should be set aside because 1) the Union representative breached its duty of fair representation of the Plaintiff during the arbitration proceeding, 2) there was evidence of partiality on the part of the Arbitrator, and 3) the Arbitrator failed to consider evidence and witnesses' statements submitted prior to the arbitration (Id.). Defendant filed its Motion for Summary Judgment, contending that Plaintiff lacks standing to bring suit because she is a non-signatory to the Collective Bargaining Agreement, and that even if she did have standing, she has failed to present evidence sufficient to support a claim to vacate the Arbitrator's award (doc. 60).

In his Report and Recommendation, the Magistrate Judge

found that Plaintiff has no standing to challenge the arbitration award because the Collective Bargaining Agreement does not grant Plaintiff such rights (doc. 74)(finding persuasive Defendant's citation to Bacashihua v. American Postal Workers Union, 859 F. 2d 402 (6th Cir. 1988), and citing Katir v. Columbia University, 15 F. 3d 23 (2d Cir. 1994)). The Magistrate Judge further found that even if Plaintiff had standing, there is no issue of material fact relative to Plaintiff's claim that the union failed to provide her with fair representation at the hearing, and therefore summary judgment in favor of the union would be appropriate if the union were made a party (Id.). The Magistrate Judge reasoned that because Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185 requires a finding against the union and the employer, and as no such finding can be made against the union, it follows that Defendant employer is entitled to summary judgment (Id.). As for Plaintiff's contentions that the Arbitrator was biased, the Magistrate Judge found no basis to obstruct summary judgment in favor of Defendant (Id.). Finally, the Magistrate Judge found that the Arbitrator's decision reflects that he drew his conclusion from his analysis of the facts and the Collective Bargaining Agreement, and that Plaintiff has not demonstrated that any extralegal factors influenced the Arbitrator's decision (Id.). The Magistrate Judge concluded by recommending that Defendant's Motion for Summary Judgment be granted and this matter be terminated upon the Court's docket (doc. 74).

The Court finds the Report and Recommendation of the

Magistrate Judge thorough and well-reasoned and will therefore affirm his Recommendation.

Proper notice was provided to the parties under Title 28 U.S.C. § 636(b)(1)(C), including the notice that they would waive further appeal if they failed to file an objection to the Magistrate Judge's Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981).

Having reviewed this matter de novo, pursuant to Title 28 U.S.C. § 636, the Court finds the Magistrate Judge's Report and Recommendation to be correct. Accordingly, the Court hereby ADOPTS the Magistrate Judge's report and AFFIRMS the Magistrate Judge's recommended decisions (doc. 74). The Court therefore GRANTS Defendant's Motion for Summary Judgment (doc. 60) and terminates this case upon the Court's docket.

SO ORDERED.

Dated: October 16, 2003

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge